

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: BEXTRA AND CELEBREX
MARKETING SALES PRACTICES AND
PRODUCT LIABILITY LITIGATION

CASE NO. 05-CV-01699 CRB
MDL No. 1699

This Document Relates To:

John Bolwell	05-3902 CRB
Alane Davis	05-3902 CRB
Charles C. Foti, Jr. et al.	06-0157 CRB
Jack Andrews	06-2713 CRB
Thelma Andrews	06-2713 CRB
Louise M. Porac	06-6779 CRB
Health Care Service Corp.	11-0310 CRB

**ORDER REGARDING REMAINING
PLAINTIFFS AND SETTING FURTHER
CASE MANAGEMENT CONFERENCE**

Pursuant to the case management conference (“CMC”) held in this litigation on October 14, 2011, the Court hereby ORDERS as follows:

1. Jack & Thelma Andrews, Case No. 06-2713 CRB – Dismissed with Prejudice

On August 24, 2011, this Court issued an Order to Show Cause Why Plaintiffs Should Not Be Dismissed for Lack of Prosecution (“the OSC”). The OSC required counsel for the above-captioned Plaintiffs (or Plaintiffs themselves, if they are pro se) to: (1) notify the Court in writing on or before October 4, 2011 of the reasons the case should not be dismissed and to provide a copy of any such communication to counsel for the Pfizer Defendants and Plaintiffs’ Liaison Counsel; and (2) appear in person at the CMC to show cause as to why Plaintiffs’

lawsuits should not be dismissed with prejudice for a lack of prosecution. The Andrews Plaintiffs, who never served Pfizer with their complaint, did not submit any written response to the OSC and did not appear in person at the CMC. Accordingly, for the reasons stated in the OSC, their case hereby is DISMISSED WITH PREJUDICE.

2. John Bolwell & Alane Davis, Case No. 05-3902 CRB – OSC Continued

Plaintiffs John Bolwell and Alane Davis also were subject to the OSC. Counsel for Mr. Bolwell and Ms. Davis filed a written response to the OSC, appeared in person at the CMC, and requested a 60-day continuance of the OSC, which he represented would be sufficient time to complete the settlement process. Pfizer did not oppose that request.

The Court hereby finds that an extension of the OSC for 60 days is warranted for these Plaintiffs. Counsel for the above-captioned Plaintiffs must appear in person at the continued hearing on the OSC on December 16, 2011 at 10:00 a.m. to show cause as to why Plaintiffs' lawsuits should not be dismissed with prejudice for a lack of prosecution. *See* Fed. R. Civ. P. 41. Counsel for Pfizer may appear at that hearing telephonically.

3. Louise M. Porac, Case No. 06-6779 CRB – Briefing Schedule; OSC Continued

Plaintiff Louise Porac also was subject to the OSC. Ms. Porac previously filed a petition for relief from Pretrial Order No. 8 ("PTO 8"), which established a common benefit fund to compensate the Plaintiffs' Steering Committee ("PSC") for work it performed on behalf of all Plaintiffs, and she has not yet completed her settlement in light of her dispute with the PSC. Ms. Porac also filed a written response to the OSC and appeared in person at the CMC.

The PSC responded to Ms. Porac's petition on Friday, October 21, 2011. Ms. Porac is hereby ORDERED to file a response, if any, by Friday, November 18, 2011. The Court will inform the parties if it believes oral argument on Ms. Porac's petition is warranted.

Because that issue is pending, the Court hereby finds that an extension of the OSC for 60 days is warranted for Ms. Porac as well. Ms. Porac or her counsel must appear in person at the continued hearing on the OSC on December 16, 2011 at 10:00 a.m. to show cause as to why her lawsuit should not be dismissed with prejudice for a lack of prosecution, if Ms. Porac has not completed her settlement by that time. If Ms. Porac does complete her settlement, Pfizer is

hereby ORDERED not to pay any common benefit assessment to the PSC until the Court rules on Ms. Porac's petition, at which time the Court will address the disbursement of the remaining funds.

4. Health Care Service Corporation, Case No. 11-0310 CRB – Briefing Schedule

The Judicial Panel on Multidistrict Litigation ("JPML") transferred this purchase claim case to this Court in early 2011. Prior to that transfer, the Pfizer defendants had filed a motion to dismiss. In light of the passage of time, the Court hereby ORDERS Pfizer to re-file its motion to dismiss, as well as an updated memorandum of points and authorities, by Friday, November 18, 2011. Plaintiff must file an opposition, if any, by Friday, December 16, 2011. Pfizer must file a reply, if any, by Tuesday, January 10, 2012. The Court will hold oral argument on Pfizer's motion on Friday, January 27, 2012 at 10:00 a.m.

5. Charles C. Foti, Jr. et al., Case No. 06-0157 CRB – Parties to Meet & Confer

These Plaintiffs are governmental entities whose claims were not resolved in connection with the purchase claim class action settlement in this litigation. The Court hereby ORDERS the parties to meet and confer with respect to a discovery plan for any remaining discovery that may be necessary for pretrial purposes, including but not limited to motions for summary judgment. The parties shall be prepared to discuss the necessary discovery at the next CMC in this litigation, which the Court hereby sets for January 27, 2012 at 10:00 a.m.

IT IS SO ORDERED.

Dated: October 28, 2011

